

DRAFT BYLAW CHANGES RE:

“BIG HOUSE” BYLAW

GUEST HOUSES AND ACCESSORY APARTMENTS

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Article 2: DEFINITIONS

**Floor Area
Section 2.11**

The area of a building or structure determined by adding all horizontal areas of the ~~several floors~~ above grade level ~~stories~~ having a height clearance of six (6) feet or more, as measured from the interior faces of the exterior walls.

**Total Living Area
Section 2.24**

Total Living Area means the aggregate floor area of the horizontal areas of the above grade level stories (see 2.29) of a building and any portion of basement spaces not beneath, or with a floor level more than ten feet below, a story above grade level; measured from the interior faces of the exterior walls of the building, without deduction for bathrooms, hallways, stairs, closets, and the thickness of walls, columns or other structural features of all habitable space, which is generally based on the sum of the exterior dimensions of each above grade level of a structure but does not include decks or porches, even if roof covered or enclosed by walls or screening. The measurement includes all Dwellings and Accessory Structures, ~~or portions thereof, that are habitable~~. It also includes garages (but only to the extent by which they exceed 500 sq. ft.), indoor swimming pools; indoor tennis, squash, or similar courts; and similar indoor facilities.

Excluded from Total Living Area are:

- a. Affordable accessory apartments; ????? (for perpetuity)
- b. Non-habitable attic space;
- c. Open porches and decks, even if roof covered;
- d. Screen porches totaling 300 sq. ft. or less for principal dwelling and screen porch exclusions for guest houses and accessory apartments (see 4.2A.1.b. and 6.12A.4.). Any square footage greater than the exclusion(s) shall be added to Total Living Area.
- e. Mechanical & Utility space(s);
- f. All accessory structures used exclusively for agriculture;
- g. Non-habitable structures less than 200 sq. ft.

**Accessory Apartment
Section 2.25**

An "Accessory Apartment" is a separate living area (attached to or detached from the principal dwelling) which is equipped with a kitchen, one or more bathroom(s) and a separate entrance and is intended for accessory use to a single-family dwelling, on any sized lot.

**Grade Level
Section 2.27**

A reference plane representing the mean of the finished or natural ground level adjoining the building at all exterior walls, whichever is lower.

**Basement
Section 2.28**

A story that is not above grade level. (See "Story above grade level").

Story Above Grade Level

Section 2.29

Any story having its finished floor surface entirely above grade level (see 2.27) or in which the finished surface of the floor level next above is more than six feet above grade level.

For any story in which the finished floor surface next above is more than three feet, but less than six feet, above grade level, the floor area of such story shall be counted as a story above grade level to the degree the floor surface next above is between three feet and six feet above grade level.

Article 4: USE REGULATIONS

ACCESSORY USES

Section 4.2A Accessory uses as specified below which are customarily accessory and incidental to a permitted use, subject to the following provisions.

1. GuestHouse, provided that:
 - a. The lot on which the principal dwelling and the accessory dwelling are located contains a minimum area of land of (3) acres.
 - b. The maximum floor area of the accessory dwelling shall not exceed 800 square feet. Excluded from such limit are open porches and decks, and screen porches of 200 square feet or less in total. An interior stair from the 1st floor area to an unfinished, non-habitable basement for the purpose of access to utilities and storage shall be permitted and shall not be included in floor area.

Article 6: DIMENSIONAL AND DENSITY REQUIREMENTS

Section 6.12

A. Accessory Apartments

This section is intended (a) to help provide affordable year-round rental housing opportunities within the context of Chilmark's predominantly single family home character (and to give homeowners an opportunity for supplemental income), and (b) to provide housing for an owner's immediate family members (i.e., children, grandchildren, parents, in-laws) and Caregivers.

One Accessory Apartment (pre-existing or to be constructed) may be allowed by Special Permit and with approval of the Board of Health, subject to compliance with all these Bylaws and to the following conditions:

1. Permitted Use: An Accessory Apartment must be either (a) rented as affordable housing (as further set forth herein) or (b) rented or provided free of charge to immediate family members or Caregivers (as further set forth herein). No other occupancy is permitted.
2. Requirements for Affordable Housing Apartments:
 - a. The principal dwelling and the Accessory Apartment must be owned by the same party.
 - b. The owner of the property need not be a year-round resident of Chilmark.
 - c. The Accessory Apartment must be rented on a year-round basis to persons eligible to rent affordable housing in Chilmark following basic income certification by DCRHA*
 - d. The maximum rental rate shall be established annually by the Federal Department of Housing & Urban Development (HUD) and administered by the Dukes County

Regional Housing Authority (DCRHA) which will also administer the Accessory Apartment program for those apartments used as affordable housing.

*Dukes County Regional Housing Authority

3. Requirements for Immediate Family Member/Caregiver Apartment

- a. The principal dwelling and the Accessory Apartment must be owned by the same party.
- b. The owner of the property must be a year-round resident of Chilmark and must occupy either the principal dwelling or the Accessory Apartment (with the exception of seasonal Caregivers as set forth in 3.e below).
- c. The Accessory Apartment must be rented or occupied on a year-round basis (with the exception of seasonal Caregivers as set forth in 3.e below).
- d. There is no minimum or maximum rental rate.
- e. Notwithstanding 3.b and 3.c above (regarding the year-round residency requirement of the property owner and the year round occupancy requirement of the Accessory Apartment), if the owner of the property is not a year-round resident of Chilmark and the Special Permit specifically so provides, the Accessory Apartment may be rented or provided free of charge on less than a year-round basis for an owner's Caregiver while the owner is in residence on the property.

4. Size Restriction: Accessory Apartments (including an Accessory Apartment within an otherwise non-habitable structure such as a garage or barn) shall **have a Floor Area** not exceeding **1,080** square feet (or, if a Guest House would not be permissible on such lot, such Accessory Apartment shall **have a Floor Area** not exceeding **540** square feet). **Excluded from such limits are open porches and decks, and screened porches 250 square feet or less (180 square feet or less on lots where a Guest House would not be permissible). An interior stair from the 1st Floor Area to an unfinished, non-habitable basement for the purpose of access to utilities and storage shall be permitted and shall not be included in floor area.** **Question to be discussed: Should all Accessory Apartments be limited in size for smaller lots where a guest house size would be limited? Or limited in size unless designated exclusively as an affordable housing unit?**

Conversion of Accessory Apartment to Guest House (Accessory Apartment is more than 400 sq.ft.): Any Special Permit for a detached Accessory Apartment (including an Accessory Apartment within an otherwise non-habitable structure such as a garage or barn) of more than 400 square feet shall specify that such Accessory Apartment may not be used other than as affordable rental housing (in accordance with the requirements of the DCRHA) or by an owner's caregiver or immediate family members unless and until such Accessory Apartment is formally approved by the Town as a permissible Guest House pursuant to these Bylaws (including, without limitation, the 5 year waiting period requirement for a Guest House, **and Guest House size restrictions**).

5. Conversion of Accessory Apartment to Detached Bedroom or Guest House (Accessory Apartment is 400 sq. ft. or less): Any Special Permit for a detached Accessory Apartment (including an Accessory Apartment within an otherwise non-habitable structure such as a garage or barn) of 400 square feet or less shall specify that such Accessory Apartment may not be used other than as affordable rental housing (in accordance with the requirements of the DCRHA) or by an owner's Caregiver or immediate family members until either (i) the kitchen is removed and such structure qualifies as a Detached Bedroom or (ii) the structure is formally approved by the Town as a permissible Guest House pursuant to these Bylaws (including, without limitation, the 5 year waiting period requirement for a Guest House).

6. Both Guest House & Accessory Apartment Permissible: For the avoidance of doubt and subject to the other provisions of these Bylaws, an owner of a property shall not be precluded

from having both an Accessory Apartment and a Guest House. No property may have more than one Guest House.